

serves, charging that the article had been shipped in interstate commerce on or about September 23, 1935, by the White Gate Products Corporation from New York, N. Y., and that it was misbranded in violation of the Food and Drugs Act. The article was labeled in part: "Trump Brand Pure Strawberry Preserves \* \* \* Eastern Wholesale Grocery Co. Distributors Providence, R. I."

The article was alleged to be misbranded in that the statement on the label, "Pure Strawberry Preserves", was false and misleading and tended to deceive and mislead the purchaser when applied to a product resembling a preserve but which contained less fruit than a preserve should contain; and for the further reason that it was an imitation of and was offered for sale under the distinctive name of another article.

On May 12, 1936, the White Gate Products Corporation having appeared as claimant and the case having come on for trial before the court without a jury, the court, on the evidence presented, found the product to be misbranded as charged in the libel. On October 28, 1936, judgment of condemnation and forfeiture was entered.

M. L. WILSON, *Acting Secretary of Agriculture.*

**26304. Misbranding of canned peas. U. S. v. 650 Cases and 350 Cases of Canned Peas. Consent decree of condemnation. Product ordered released under bond to be relabeled.** (F. & D. nos. 36892, 37088. Sample nos. 50531-B, 50532-B.)

These cases involved canned peas that fell below the standard established by this Department because of an excessive number of peas that were not immature, and that were not labeled to indicate that they were substandard.

On or about January 7 and January 20, 1936, the United States attorney for the District of New Jersey, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 1,000 cases of canned peas at Hoboken, N. J., alleging that the article had been shipped in interstate commerce on or about December 4, 1935, by G. L. Webster Co., Inc., from Cheriton, Va., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "New Boy Early June Peas \* \* \* American Grocery Company Distributors Hoboken, N. J."

The article was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture for such canned food in that the peas were not immature, and its package or label did not bear a plain and conspicuous statement prescribed by the Secretary of Agriculture indicating that it fell below such standard.

On October 5, 1936, the G. L. Webster Co., Inc., having appeared as claimant, and having admitted the allegations of the libels and consented to the entry of a decree, a consolidated judgment of condemnation was entered and it was ordered that the product be released under bond to be relabeled under the supervision of this Department.

M. L. WILSON, *Acting Secretary of Agriculture.*

**26305. Misbranding of Lemonina. U. S. v. 1,200 Cartons of Lemonina Lemon Gallon-Ade. Default decree of condemnation and destruction.** (F. & D. no. 36930. Sample no. 50628-B.)

This product was represented to be a base from which lemonade could be made but consisted of an acidulated, artificially colored, glucose sirup, flavored with citrus oils, containing a negligible amount, if any, of actual lemon juice.

On January 16, 1936, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 1,200 cartons of Lemonina at New York, N. Y., alleging that the article had been shipped in interstate commerce between the dates of June 15 and October 15, 1935, from Westfield, Mass., by the Lemonina Products Corporation, and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Lemonina Lemon Gallon-Ade \* \* \* Lemonina Products Corporation, New York City."

The article was alleged to be misbranded in that the statement on the label, "Lemonina Lemon Gallon-Ade Makes One Gallon Delicious Beverage", was false and misleading and tended to deceive and mislead the purchaser in that it implied that the article was a base from which lemonade could be made, whereas it was not; and, further, that it was an imitation of and was offered for sale under the distinctive name of another article, i.e., it imitated a base of lemon sirup consisting of lemon juices and sugar from which lemonade could be made by the addition of water or of water and additional sugar.

On October 5, 1936, the Lemonina Products Corporation, the claimant, having withdrawn its answer, judgment of condemnation was entered and it was ordered that the product be destroyed and the bottles returned to the claimant and that the claimant pay costs of the proceedings.

M. L. WILSON, *Acting Secretary of Agriculture.*

**26306. Misbranding and alleged adulteration of preserves. U. S. v. 36, 57, and 84 Jars of Preserves. Default decree of condemnation. Product delivered to charitable institutions. (F. & D. no. 37080. Sample nos. 44002-B, 44007-B, 44008-B.)**

This case involved quince, loganberry, and blackberry preserves which contained added water; the blackberry also contained added pectin; the loganberry and blackberry were short-weight.

On February 3, 1936, the United States attorney for the District of Rhode Island, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 177 jars of preserves, at Providence, R. I., alleging that the articles had been shipped in interstate commerce between the dates of October 16, 1935, and December 3, 1935, by the White Gate Products Corporation, from New York, N. Y., and charging adulteration and misbranding in violation of the Food and Drugs Act.

The articles were labeled: "White Gate Pure Quince [or "Loganberry" or "Blackberry"] Preserves Net Wt. 2 Lbs. White Gate Products Corp. N. Y."

The articles were alleged to be adulterated in that water—and in the case of the blackberry preserves, also pectin—had been mixed and packed with the articles so as to reduce, lower, and injuriously affect their quality; and in that the articles had been mixed in a manner whereby inferiority was concealed.

Misbranding was alleged for the reason that the statements, "Pure Quince Preserves", "Pure Loganberry Preserves Net Wt. 2 Lbs", "Pure Blackberry Preserves Net Wt. 2 Lbs.", borne on the labels, were false and misleading and tended to deceive and mislead the purchaser when applied to products that contained moisture which should have been removed, a part of which also contained pectin and a part of which were short in weight. Misbranding was alleged for the further reason that the articles were imitations of and were offered for sale under the distinctive names of other articles. Misbranding of the loganberry and blackberry preserves was alleged for the further reason that they were food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the statement was not correct.

On June 10, 1936, no claimant having appeared, judgment was entered finding the products misbranded and ordering that they be condemned and forfeited. They were distributed to various charitable institutions.

M. L. WILSON, *Acting Secretary of Agriculture.*

**26307. Adulteration and misbranding of tomato juice. U. S. v. 200 Cases of Tomato Juice in Cans. Default decree of destruction. (F. & D. no. 37286. Sample no. 68703-B.)**

This case involved tomato juice that contained excessive mold and that was short in volume.

On March 2, 1936, the United States attorney for the Western District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 200 cases of canned tomato juice at Kansas City, Mo., alleging that the article had been shipped in interstate commerce on or about November 9, 1935, by Robinson Canning Co., from Siloam Springs, Ark., and charging adulteration and misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: (can) "King of Ozarks Brand Tomato Juice Contents 10 Fl. Oz. Packed By Robinson Canning Co. Robinson, Ark."

The article was alleged to be adulterated in that it consisted wholly or in part of a decomposed vegetable substance.

The article was alleged to be misbranded in that the statement on the label, "Contents 10 Fl. Oz.", was false and misleading and tended to deceive and mislead the purchaser when applied to a product in cans containing less than 10 fluid ounces; and in that it was food in package form and the quantity of contents was not plainly and conspicuously marked on the outside of the package, since the quantity stated was not correct.

On July 21, 1936, no claimant having appeared and the court having found the article adulterated and misbranded, judgment was entered ordering that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*